




**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL OCEAN SERVICE  
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT  
Silver Spring, Maryland 20910

September 23, 2002

MEMORANDUM FOR: The July 2, 2002, ANPR Comment File

FROM: David Kaiser   
Federal Consistency Coordinator

SUBJECT: NOAA Meeting with the American Petroleum Institute (API)

At API's request, representatives from NOAA met with API staff and members so that API could provide NOAA with a preview of their comments on NOAA's Advanced Notice of Proposed Rulemaking (ANPR) on the Coastal Zone Management Act (CZMA) Federal Consistency regulations. 67 Fed. Reg. 44407-44410 (July 2, 2002). The meeting took place at NOAA offices in Washington, D.C. on September 16, 2002, 2:00-2:45 PM.

**Participants**

**NOAA**

Tim Keeney, Deputy Assistant Secretary  
Jamie Hawkins, Acting Assistant Administrator, NOS  
David Kaiser, FC Coordinator, NOS/OCRM  
Jennifer Labarre, NOS  
Molly Holt, GCOS  
Andrew Larkin, LA

**API**

Lisa Flavin, Senior Regulatory Analyst, API  
Alice Crowe, Senior Attorney, API  
David Duplantier, Senior Counsel, ChevronTexaco  
Bruce Tackett, Washington Rep., ExxonMobil  
Kent Satterlee, Senior Staff, Shell

**Summary of Comments**

API thanked Deputy Assistant Secretary Keeney (DAS) for the opportunity to meet. API thanked the DAS for the opportunity afforded by the ANPR to address some of industry's concerns, noting that the ANPR is a step in the right direction. API applauded recent NOAA efforts to improve communication with the Navy and the Department of the Interior (Interior) on various issues, including CZMA issues. API also welcomed NOAA's strategic planning process.

The DAS acknowledged these thanks, noting that Under Secretary Admiral Lautenbacher and Assistant Secretary Mahoney have substantial experience in strategic planning and have high standards for the NOAA strategic planning process.



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API then described its "top three" issues.

1. **Secretarial Appeal Timing.** API expressed hope that the delays in issuing an appeal decision get "fixed." (Flavin) The change to the CZMA in 1996 that was intended to address this is "flawed" since there are continued delays in the closure of decision record. (Duplantier)
2. **Necessary Data and Information.** There is a need to clearly identify necessary data and information for CZMA purposes. Interior's Minerals Management Service (MMS) proposed rule from May 2002 and its new Notice to Lessees (NTL), issued in August 2002, provide some good information regarding information needs. (Flavin) At Kaiser's request, API will send NOAA the NTL (received via email on 9/16, along with the Oil Spill Response Plan NTL—both are attached to this memorandum).

API stated that the information provided by the industry applicant and the information required and/or developed by MMS should be sufficient for CZMA purposes. If there are information gaps to address State CZMA needs, these gaps need to be identified up-front, before the CZMA process begins. (Duplantier)

Three things are needed for information needs: (1) Good and timely decisions based on sound science. Information and data needs should not be used to avoid making decisions. (2) A predictable process where interagency exchange of information happens in a reasonable amount of time. Too often this exchange takes too much time, and (3) Data needs to be of good quality. (Tackett)

Kaiser asked if API's written comments would be general regarding information needs or would provide a more specific list of information that should be included in CZMA reviews. Duplantier replied that the comments would probably be more general as the information required by MMS already provides detail.

3. **The CZMA Federal Consistency "Effects Test" as related to Interstate Consistency Review.** Interstate consistency review process not based on statute and the listing and geographic scope requirements in 15 CFR part 930, subpart I are used by States as "delay tactics." (Crowe)

Kaiser noted that no State had yet developed the listing or geographic scope requirements under subpart I and thus there has been no delay and no way to determine if the provisions will be used to delay projects. API felt that the provisions could be used in such a manner.

API then asked for information regarding recent NOAA-Interior communication and rumored work groups. (Flavin) API stated that interagency coordination is essential. API stated that it was impressed, generally, with NOAA science, but that applicants need more lead time when late changes are made to a Biological Opinion. Also, local NOAA offices may be issuing Biological Opinions not based on NOAA's sound science. The workgroups should be prioritized to address immediate concerns with active proposals to address this issue (presumably talking about

Biological Opinions and Marine Mammal Protection Act issues). (Tackett) The work groups are good since a permanent mechanism is needed so that Interior and NOAA talk to each other regularly, especially because of the intended cross-cutting CZMA and Outer Continental Shelf Lands Act programs. (Crowe)

The DAS and Kaiser stated that there were recent successful efforts at high levels of NOAA and Interior to start a process to improve interagency communication and coordination. Hawkins, Labarre and Kaiser provided further information on recent communication and meetings and the soon-to-be established interagency workgroups for CZMA, Marine Protected Areas, Coral Reefs, and Endangered Species Act-Marine Mammal Protection issues. NOAA did not provide any names yet as the groups were still forming and noted that the groups would probably start to meet in the next few weeks.

API then asked what the proposed schedule was for a proposed rule. Kaiser responded that we would see what the comments said and then decide our course of action, either to do nothing or to move forward with a proposed rule. That decision and work should occur this Fall. API asked if we might decide not to do a proposed rule and Kaiser replied that NOAA issued the ANPR to address some specific issues, but NOAA could not pre-determine its action and that we needed to wait until the comment period closed and we evaluated the comments.

We then briefly discussed an issue not directly related to the ANPR, but one of interest to NOAA and the industry: Abandonment of Rigs for Other Purposes. Industry is interested in abandoning in place offshore drilling platforms, where the platforms would come under Federal, State or private ownership or control and be used for purposes other than drilling. Otherwise, cost to industry to remove the rigs will be very costly, particularly offshore California where the cost could reach \$2 Billion. Duplantier noted how successful the Rigs to Reef program was in the Gulf of Mexico.

Meeting adjourned

Attachments

cc: (without attachments)

Molly Holt, NOAA GCOS

Karl Gleaves, NOAA GCOS

Doug Brown, NOAA, OCRM